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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Matthew P. WARDEN, et al.
Title: METHOD AND INSTRUMENT FOR THERMAL
SUTURE CUTTING
Appl. No.: 10/600,368
Filing Date: June 23, 2003
Examiner: Michael G. Mendoza
Art Unit: 3731

Honorable Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

DECLARATION UNDER 37 C.F.R. § 1.132

I, Dr. Steven Remsen., do hereby make the following declarations:

1. I am an Emergency Medicine Physician in the employ of Doctor's Emergency Physicians P.A.
2. A copy of my curriculum vitae is attached as Exhibit 1.
3. I am skilled in the art of suture removal.
4. I have reviewed the above-referenced patent application, including method claims 18 and 19, as well as the Warthen reference (U.S. Patent No. 4,845,851).

Page 1 of 3

Serial No. 10/600,368

Declaration of Dr. Steven Remsen

5. It is my understanding that Examiner believes that it would have been obvious to one of ordinary skill in the art to utilize the Warthen device (which he describes as for severing the tails of a knot formed in sutures) to remove a suture from the skin of the patient according to the method recited in claim 18, including the step of applying heat to a loop of a suture so as to heat and cut the suture loop, thereby allowing the suture to be removed from the patient's skin. It is further my understanding that the Examiner believes that it would have been obvious to one of ordinary skill in the art to insert the resistive heating element (20) of the Warthen device under a loop of the suture, i.e., between the patient's skin and a knotted portion of the suture, and activate the resistive heating element so as to heat and cut the suture loop, thereby allowing the suture to be removed from the patient's skin as recited in pending method claim 19.
6. I respectfully submit that it would never occur to me to utilize the Warthen device, in any orientation, to remove a suture from the skin of the patient according to the methods of claims 18 and 19. Moreover, I would have strong reservations about even attempting such an act for the following reasons:
- (a) I would be extremely concerned that the device would burn the patient's skin, as a result of direct or indirect contact with either the resistive heating element, 20, or the conductive metal side strips, 12 and 14.
 - (b) Based on the Warthen disclosure at col. 4: 55-59, I would presume that once cut, the free suture threads would swell up to form a "knot locking portion" that would prevent them from being easily removed from the patient's skin, thereby bringing me back to step one (i.e., facing the dilemma of removing a suture from the skin of a patient).

Serial No. 10/600,368
Declaration of Dr. Steven Remsen

7. In light of the above, it is my opinion that one reasonably skilled in the art would not have been motivated to utilize the Warthen device to perform the method of claims 18 and 19 as suggested by the Examiner.

I declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true, and further, that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

By: _____

Steven Remsen, M.D.
Dr. Steven Remsen

Dated: 1/31/05

Page 3 of 3